

employee for substitute. An employee employ a substitute is liable to his principal in his selection. The substitute is directly

re-en. Sec. 5267, Rev. C. 1907; re-en. Sec. 7782, R.C.M. C. Sec. 1022; re-en. Sec. 7782, R.C.M. 1935; R.C.M.

Where service is to be rendered by two of them dies, the survivor must act alone if he can rightly perform without the aid otherwise.

re-en. Sec. 5269, Rev. C. 1907; re-en. Sec. 7784, R.C.M. C. Sec. 1024; re-en. Sec. 7784, R.C.M. 1935; R.C.M.

Part 5

Termination of Employment

2-501. Termination of employment generally. Every employment

minated by: the expiration of its appointed term; the extinction of its subject;

the death of the employee; or his legal incapacity to act as such.

re-en. Sec. 2701, Civ. C. 1895; re-en. Sec. 5272, Rev. C. 1907; re-en. Sec. 7787, R.C.M. al. Civ. C. Sec. 1997; Field Civ. C. Sec. 1027; re-en. Sec. 7787, R.C.M. 1935; R.C.M. 1-302.

"Employment" defined, 39-2-101.

References fact not enforceable against employee 2 years, 28-2-722.

2-502. Termination by death or incapacity of employer. (1) employment in which the power of the employee is not coupled with interest in its subject is terminated by notice to him of:

the death of the employer, or his legal incapacity to contract.

An employee, unless the term of his service has expired or unless he right to discontinue it at any time without notice, must continue his after notice of the death or incapacity of his employer, so far as is interest, until a reasonable time after notice of the facts has been communicated to such successor. The successor must compensate the employee in service according to the terms of the contract of employment.

re-en. Sec. 2700, Civ. C. 1895; re-en. Sec. 5271, Rev. C. 1907; re-en. Sec. 7786, 1921; Cal. Civ. C. Sec. 1996; Field Civ. C. Sec. 1026; re-en. Sec. 7786, R.C.M. 1935; Sec. R.C.M. 1947; (2) En. Sec. 2702, Civ. C. 1895; re-en. Sec. 5273, Rev. C. 1907; re-en. Sec. R.C.M. 1921; Cal. Civ. C. Sec. 1998; Field Civ. C. Sec. 1028; re-en. Sec. 7788, R.C.M. re-en. 41-303, R.C.M. 1947; R.C.M. 1947, 41-301, 41-303.

References

Employment" defined, 39-2-101.

term may be terminated at the will of either party on notice to the other, except where otherwise provided by this chapter, 28-10-301 through 28-10-303, 28-10-502, 30-11-601 through 30-11-605, and 39-2-302.

History: En. Sec. 2703, Civ. C. 1895; re-en. Sec. 5274, Rev. C. 1907; re-en. Sec. 7789, R.C.M. 1921; Cal. Civ. C. Sec. 1999; Field Civ. C. Sec. 1029; re-en. Sec. 7789, R.C.M. 1935; and, Sec. 2, Ch. 245, L. 1969; R.C.M. 1947, 41-304; and, Sec. 4, Ch. 397, L. 1979.

Cross-References Employee's right to disobey impossible, unlawful, or unreasonable commands, 39-2-404.

"Employment" defined, 39-2-101.

39-2-504. Repealed. Sec. 10, Ch. 641, L. 1987.

History: En. Sec. 2704, Civ. C. 1895; re-en. Sec. 5275, Rev. C. 1907; re-en. Sec. 7790, R.C.M. 1921; Cal. Civ. C. Sec. 2000; Field Civ. C. Sec. 1030; re-en. Sec. 7790, R.C.M. 1935; R.C.M. 1947, 41-305.

39-2-505. Repealed. Sec. 10, Ch. 641, L. 1987.

History: En. Sec. 2705, Civ. C. 1895; re-en. Sec. 5276, Rev. C. 1907; re-en. Sec. 7791, R.C.M. 1921; Cal. Civ. C. Sec. 2001; Based on Field Civ. C. Sec. 1031; re-en. Sec. 7791, R.C.M. 1935; R.C.M. 1947, 41-306.

Part 6

Master and Servant

39-2-601. Servant defined. A servant is one who is employed to render personal service to his employer otherwise than in the pursuit of an independent calling and who in such service remains entirely under the control and direction of the latter, who is called his master.

History: En. Sec. 2720, Civ. C. 1895; re-en. Sec. 5279, Rev. C. 1907; re-en. Sec. 7794, R.C.M. 1921; Cal. Civ. C. Sec. 2009; Field Civ. C. Sec. 1034; re-en. Sec. 7794, R.C.M. 1935; R.C.M. 1947, 41-401.

39-2-602. Term of hiring. (1) A servant is presumed to have been hired for such length of time as the parties adopt for the estimation of wages. A hiring at a yearly rate is presumed to be for 1 year; a hiring at a daily rate, for 1 day; a hiring by piecework, for no specified term.

(2) In the absence of any agreement or custom as to the term of service, the time of payment, or rate or value of wages, a servant is presumed to be hired by the month at a monthly rate of reasonable wages, to be paid when the service is performed.

History: (1) En. Sec. 2721, Civ. C. 1895; re-en. Sec. 5280, Rev. C. 1907; re-en. Sec. 7795, R.C.M. 1921; Cal. Civ. C. Sec. 2010; Field Civ. C. Sec. 1035; re-en. Sec. 7795, R.C.M. 1935; Sec. 41-402, R.C.M. 1947; (2) En. Sec. 2722, Civ. C. 1895; re-en. Sec. 5281, Rev. C. 1907; re-en. Sec. 7796, R.C.M. 1921; Cal. Civ. C. Sec. 2011; Based on Field Civ. C. Sec. 1036; re-en. Sec. 7796, R.C.M. 1935; Sec. 41-403, R.C.M. 1947; R.C.M. 1947, 41-402, 41-403.

"Servant" defined, 39-2-601.

Cross-References Contract not enforceable against employee beyond 2 years, 28-2-722.

39-2-603. Renewal of hiring. Where, after the expiration of an agreement respecting the wages and the term of service, the parties continue the relation of master and servant, they are presumed to have renewed the agreement for the same wages and term of service.

History: En. Sec. 2723, Civ. C. 1895; re-en. Sec. 5282, Rev. C. 1907; re-en. Sec. 7797, R.C.M. 1921; Cal. Civ. C. Sec. 2012; Field Civ. C. Sec. 1037; re-en. Sec. 7797, R.C.M. 1935; R.C.M. 1947, 41-404.